

The Honorable Thomas S. Zilly
Noted for: Friday, March 15, 2002

CV 01-01081 #00000022

FILED ENTERED
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MAR 11 2002 KN
AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MUIO TRAN, KIM CUC NGUYEN, NHU
HUU TRAN, a minor child, LOAN HUU
TRAN, a minor child,

Plaintiffs,

v.

The City of Seattle, et al.,

Defendants.

No. CO1-1081-Z

DECLARATION OF HEATHER
CARR IN SUPPORT OF
OPPOSITION TO JOINING
NORM STAMPER

HEATHER CARR declares as follows:

1. I am one of the attorneys for the previously-named defendants in this above-captioned matter and will be for Norm Stamper, if the court grants the plaintiffs' leave to amend. I make this declaration on the basis of personal knowledge and am competent to testify to the matters herein.

2 The exhibits attached to and referenced in this declaration are true and correct copies of documents generated or received and maintained by my office during the course of representing the defendants in the above-captioned matter.

DECLARATION OF HEATHER CARR IN
SUPPORT OF OPPOSITION TO JOIN NORM
STAMPER - 1

Cause No. CO1-1081-Z

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ORIGINAL

STAFFORD FREY COOPER
Professional Corporation
ATTORNEYS
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1301 FIFTH AVENUE
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TEL (206) 623-9900
FAX (206) 624-6885

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- a. Exhibit 1 is a copy of the complaint filed by plaintiffs in state court on March 7, 2001.
- b. Exhibit 2 is a copy of the state court's order granting plaintiffs' motion for voluntary dismissal.
- c. Exhibit 3 is a copy of this court's November 21, 2001 order requiring the plaintiffs to show cause why their action should not be dismissed.
- d. Exhibit 4 is a copy of a portion of the plaintiffs' responses to the defendants' first set of discovery requests.

3. On March 7, 2001, plaintiffs filed suit in state court against the City of Seattle, Officer Waldorf, Officer Little, and John Does 1-5 (Ex. 1) On May 24, 2001, the state court granted their motion for voluntary dismissal. (Ex. 2) On July 13, 2001, plaintiffs filed this action in federal court. In addition to the previously named defendants, plaintiffs also named every officer who expressed an intention to provide back up, regardless if that officer participated in any way in the plaintiffs arrest, as well as Chief Kerlikowski and former Seattle mayor, Paul Schell. Compare Complaint with Ex. 1. Gil Kerlikowski was not the Chief of Police on July 19, 1999.

4. Plaintiffs have not been actively litigating this case. Since filing this suit in federal court, plaintiffs have not served the defendants with a single interrogatory, request for production, or request for admission. They have not noted a single deposition. On November 21, 2002, this court has threatened to dismiss the action. Ex. 3.

DECLARATION OF HEATHER CARR IN
SUPPORT OF OPPOSITION TO JOIN NORM
STAMPER - 2
Cause No. CO1-1081-Z

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5. Plaintiffs have had ample time, opportunity, and incentive to determine who the Chief of Police was on July 19, 1999. Nearly 31 months have passed since the date of the alleged incident, and the identity of the Chief of Police is and was public information at all relevant times. Still, plaintiffs waited until the last possible date under the case scheduling order to attempt to join Norm Stamper as a defendant in this action.

I CERTIFY under penalty of perjury under the laws of Washington State that the foregoing is true and correct.

DATED this 11th day of March, 2002.

Hathu Carr

Heather L Carr, WSBA #29780

DECLARATION OF HEATHER CARR IN
SUPPORT OF OPPOSITION TO JOIN NORM
STAMPER - 3
Cause No. CO1-1081-Z

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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled DECLARATION OF HEATHER CARR IN SUPPORT OF OPPOSITION TO JOINING NORM STAMPER on the following individual(s):

Salah A. Kornas, Esq.
Law Office of Salah A. Kornas
600 First Avenue, Suite 514
Seattle, WA 98104

☐ Via Facsimile
☐ Via Mail
☒ Via Messenger

DATED this 11th day of March, 2002, at Seattle, Washington.


Brina Carranza

DECLARATION OF HEATHER CARR IN
SUPPORT OF OPPOSITION TO JOIN NORM
STAMPER - 4

Cause No. CO1-1081-Z

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CIVIL
01-12-13 PM 2:47
KING COUNTY SHERIFF

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2001 APR 20 AM 8:26
CHIEF OF POLICE

KING COUNTY SUPERIOR COURT
STATE OF WASHINGTON

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01 APR 27 PM 2:31
SEA
SEATTLE CITY ATTORNEY

MUOI TRAN, KIM-CUC NGUYEN, NHU
HUU TRAN, a minor, LOAN HUU
TRAN, a minor,

Plaintiffs,

vs

CITY OF SEATTLE, POLICE
OFFICERS KIRK M. WALDORF, A.
LITTLE, 1-5 DOES

Defendants.

No. **01-2-07345**

COMPLAINT FOR PERSONAL
INJURIES

Comes now the Plaintiff and for a cause of action against the Defendants alleges
as follows

I PARTIES

1 1 Plaintiff Muoi Tran is and was at all times relevant hereto a resident of
King County, Washington

1 2 Plaintiff Kim-Cuc Nguyen is and was at all times relevant hereto a
resident of King County, Washington

1 3 Plaintiff Nhu Huu Tran, a minor, is and was at all times relevant hereto
a resident of King County, Washington

COMPLAINT FOR PERSONAL
INJURIES - 1

Law Office of Salah A. Kornas
600 First Avenue, Suite 514
Seattle, WA 98104

1 4 Plaintiff Loan Huu Tran, a minor, is and was at all times relevant hereto
2 a resident of King County, Washington.

3 1 5 City of Seattle is and was at all times relevant hereto a municipality,
4 duly organized under the laws of the State of Washington, and situated in King
5 County.
6

7 1.6 Defendant Kirk M. Waldorf, Badge No. 6311, is and was at all times
8 relevant hereto an officer of the Seattle Police Department, assigned to Unit No.
9 433, acting in such capacity as the agent and employee of the defendant City of
10 Seattle. He is sued individually and in his official capacity.
11

12 1 7 Defendant A. Little, Badge No. 4843, is and was at all times relevant
13 hereto an officer of the Seattle Police Department, assigned to Unit No. 433, acting
14 in such capacity as the agent and employee of the defendant City of Seattle. He is
15 sued individually and in his official capacity.
16

17 1 8 Defendants Doe I through Doe V, inclusive are sued under fictitious
18 names. Their true names and capacities are unknown to plaintiff. When their true
19 names and capacities are ascertained, plaintiff will amend this complaint by
20 inserting their true names and capacities. Plaintiffs are informed and believe and
21 therefore allege that each of the fictitiously named defendants is responsible in
22 some manner for the occurrences alleged, and that plaintiffs' damages as alleged
23 were proximately caused by those of defendants. Each reference in this complaint
24 to "defendant", "defendants", or a specifically named defendant refers also to all
25 defendants sued under fictitious names.
26
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28
29

1 19 Plaintiffs are informed and believe and therefore allege that at all times
2 mentioned each of defendants, including all defendants sued under fictitious
3 names, was the agent and employee of each of the remaining defendants, and in
4 doing the things alleged, was acting within the course and scope of that agency
5 and employment.
6

7 II. JURISDICTION

8 21 All acts complained herein occurred in King County, Washington. This
9 Court has personal subject matter jurisdiction over the parties and this case.
10

11 III. FACTS

12 31 On July 19, 1999, at approximately 11:30 p.m., in Seattle, King County,
13 Washington, Defendant Officers Kirk M. Waldorf and A. Little came to the plaintiffs'
14 residence to locate a vehicle or driver involved in a motor vehicle collision.
15

16 32 Plaintiff Muoi Tran, whose native language is Vietnamese, answered
17 the door and Defendant Waldorf asked if he and Defendant Little could come
18 inside
19

20 33 Plaintiff Muoi Tran agreed and Defendants began questioning Plaintiff
21 Muoi about the whereabouts of his son

22 34 Plaintiff son presented himself for questioning by Defendants after
23 being retrieved in the home by Plaintiff Kim-Cuc Nguyen
24

25 35 Defendants interrogated Plaintiffs' Muoi Tran and Kim-Cuc Nguyen son
26 about the traffic accident of which Plaintiffs' son denied any involvement

27 36 Defendant Officers Waldorf and Little proceeding to place Plaintiffs'
28 son under arrest and force him outside of his parents' house
29

1 3.7 Plaintiff Moui Tran protested in a civil and peaceful manner and asked
2 the Defendant to leave his home.

3 3.8 Despite Plaintiffs' peaceful protest within their home, and repeated
4 request that Defendants leave their residence, Defendant officers became enraged
5 and proceeded to severely beat Plaintiff Muoi Tran in plain view of his wife and
6 three children by striking repeated blows to various parts of Plaintiff's body,
7 including Plaintiff's head and face, resulting in severe bodily injuries and the loss of
8 teeth.
9

10
11 3.9 Plaintiff Kim-Cuc Nguyen protested the beating of her husband in a civil
12 and peaceful manner and was also assaulted by Defendant officers on various
13 parts of Plaintiff's body in front of her son, her husband, and her two daughters,
14 Plaintiffs LoAn Huu Tran and Nhu Huu Tran, age eleven and sixteen.
15

16 3 10 Plaintiff Muoi Tran, who had committed no criminal offense in
17 connection with the events of July 19, 1999, was, nevertheless, handcuffed and
18 placed under arrest by Defendant Officers and confined in a cell without medical
19 attention for approximately 48 hours.
20

21 3 11 Plaintiff Kim-Cuc Nguyen, who had committed no criminal offense in
22 connection with the events of July 19, 1999, was, nevertheless, handcuffed and
23 placed under arrest by Defendant Officers and confined in a cell without medical
24 attention for approximately 48 hours
25

26 3 12 That as a direct and proximate result of the abuse describe above
27 Plaintiffs sustained emotional distress, humiliation, outrage, anguish, anxiety, and
28 fear of being safe and secure in their own home
29

1 3.13 That as a direct and proximate result of the abuse described above
2 Plaintiffs Nhu Huu Tran and LoAn Huu Tran, both minors, were abandoned and
3 relocated from their home after being separated by their parents, and sustained
4 emotional distress, humiliation, outrage, anguish, insecurity, anxiety, and fear of
5 being safe and secure in their own home.
6

7 3 14 That as a direct and proximate result of the aforementioned assault and
8 battery, Plaintiff Muoi Tran sustained physical injury, pain and suffering, including
9 the following injuries requiring professional medical attention: loss of teeth, multiple
10 bruises and contusions on the head, cheek, chest and pectorial areas, both upper
11 arms, shoulders and elbows.
12

13 3 15 That as a direct and proximate result of the aforementioned assault and
14 battery, Plaintiff Kim-Cuc Nguyen sustained physical injury, pain and suffering,
15 including the following injuries requiring professional medical attention multiple
16 bruises and contusions on the head, cheek, chest and pectorial areas, both upper
17 arms, shoulders and elbows
18

19 3 16 That as a direct and proximate result of the false imprisonment
20 described above, Plaintiffs Muoi Tran and Kim-Cuc Nguyen have suffered
21 emotional, psychological and bodily distress requiring medical attention, the extent
22 of which will be proven at trial
23

24 3 17 That as a direct and proximate cause of defendants' false imprisonment
25 described above Plaintiffs Moui Tran and Kim-Cuc Nguyen have suffered
26 damages The exact extent of these damages will be proven at trial
27
28
29

1 3 18 That as a direct and proximate result of the foregoing wrongful acts of
2 defendants, property belonging to Plaintiffs was damaged and destroyed, including
3 religious, devotional and sacred icons and materials, unique and irreplaceable in
4 nature, in an amount to be proven at trial
5

6
7
8 3 19 That as a direct and proximate result of the foregoing wrongful acts of
9 defendants, Plaintiffs suffered economic loss resulting from their inability to operate
10 their family business. The exact extent of these damages will be proven at trial.
11

12 3 20 That as a direct and proximate result of the foregoing wrongful acts of
13 defendants, Plaintiffs suffered shame and loss of goodwill in their community,
14 particularly the Seattle Vietnamese community of which Plaintiffs are members,
15 socially and economically. The exact extent of these damages will be proven at
16 trial
17

18 3 21 That as a direct and proximate result of the acts of Defendants,
19 Plaintiffs Muoi Tran and Kim-Cuc Nguyen were compelled to retain legal counsel,
20 at their own cost and expense, to defend criminal charges wrongfully filed against
21 them and dismissed, in an amount to be proven at trial
22

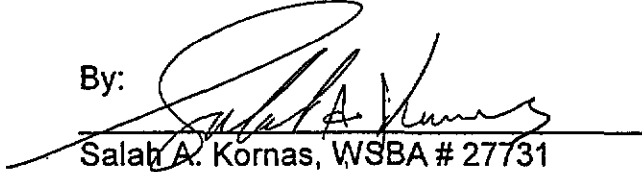
23 IV
24

25 WHEREFORE, Plaintiffs prays for judgment against the Defendants and each
26 of them, jointly and severally, in an amount to be proved at the time of trial,
27 together with Plaintiffs' costs and disbursements incurred herein, and for such
28
29

1 other and further relief as the Court may deem just and equitable, including but not
2 limited to, prejudgment interest
3
4

5 Dated this 28th day of Feb, 2001.
6

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8 By:

9 
10 Salah A. Kornas, WSBA # 27731
11 Attorney for Plaintiffs
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Honorable Robert H. Alsdorf

RECEIVED

MAY 31 2001

STAFFORD FREY COOPER

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING
AT SEATTLE

MUOI TRAN, KIM-CUC NGUYEN, NHU)
HUU TRAN, a minor, LOAN HUU TRAN,)
a minor,)

Plaintiffs,)

vs.)

CITY OF SEATTLE, POLICE OFFICERS)
KIRK M. WALDORF, A LITTLE, 1-5,)
DOES,)

Defendants.)

CASE NO. 01-2-07345-1SEA

ORDER OF DISMISSAL WITHOUT
PREJUDICE

I. ORDER

THIS MATTER having come on before this Court on motion of plaintiffs for an order dismissing his civil lawsuit without prejudice.

The Court having reviewed the plaintiffs' motion and finds that plaintiffs have shown good cause for this Court to issue an order dismissing plaintiffs Complaint without prejudice.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED that cause number: 01-2-07345-1SEA is dismissed without prejudice.

This Order does not affect defendants' right, if any, to seek costs and fees under CR 41.

DONE IN OPEN COURT

5/24/01

JUDGE

JUDGE ROBERT H. ALSDORF

ORDER DISMISSING COMPLAINT
WITHOUT PREJUDICE - 1

Law Office of Salah A. Kornas
600 First Avenue, Suite 514
Seattle, WA 98104
Tel (206) 621-9460 Fax (206) 621-9506

ORIGINAL

1 Presented By:

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3 Salah A. Kornas # 27731
4 Attorney for Plaintiffs

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27 ORDER DISMISSING COMPLAINT
28 WITHOUT PREJUDICE - 2

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NOV 26 2001

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOCKETED
11/26/01 By [Signature]

MUIO TRAN, et al.

NO. C01-1081Z

vs.

MINUTE ORDER

THE CITY OF SEATTLE, et al.

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, U.S. District Judge:

It is ORDERED that counsel show cause by DECEMBER 7, 2001 why this action should not be dismissed for failing to comply with Order requiring Status Report signed July 30, 2001 and due September 10, 2001. On August 24, 2001, the plaintiff asked for a 30 day extension of time. On October 4, 2001 the 30 day extension was granted. To date, no Joint Status Report has been filed. Absent a timely response to this Order, the action SHALL BE DISMISSED without prejudice.

Filed and entered this 21st day of November, 2001.

BRUCE RIFKIN, Clerk

By

Casey Condon
Casey Condon
Deputy Clerk

400, TSZ

The Honorable Thomas S. Zilly

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NOV 27 2001

STAFFORD FREY COOPER

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MUIO TRAN, KIM-CUC NGUYEN, NHU
HUU TRAN, a minor child, LOAN HUU
TRAN, a minor child,

Plaintiffs,

v.

THE CITY OF SEATTLE, *et al.*

Defendants.

No. C01-1081-Z

**DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION**

I. PROCEDURES

YOU ARE HEREBY SERVED with original interrogatories. In accordance with FED. R. Civ. P. 26, 33, and 34, please answer the following interrogatories and respond to the requests for production, under oath, within thirty days of service. Type the answers and responses in the spaces provided, adding additional pages if additional space is required, and return the original to this office. These answers and responses are to include all information known to you, your attorneys, your predecessors, your agents, and your investigators. These interrogatories and requests for production are continuing in nature, and you are requested to provide any information that at a later date alters or augments

the answers now given. If the additional information is not furnished, the undersigned will

**DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 1**

STAFFORD FREY COOPER

PROFESSIONAL CORPORATION

ATTORNEYS

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SEATTLE, WASHINGTON 98101-2621

ORIGINAL

10. If you are claiming municipal liability for any damage or injuries allegedly arising from the incident underlying this complaint, identify with specificity

(a) what, if any, municipal policy(ies), practice(s), and/or custom(s) allegedly resulted in your damages and/or injuries,

(b) the name and position of each City employee and/or official who established, condoned, authorized or sanctioned such policy, custom, or practice, and

(c) the date or dates of the action described in subsection (b).

ANSWER:

~~SEE ATTACHED~~

~~Exhibit G~~

None
SAK

11. If you are claiming any damage or injuries resulting from a violation of civil rights or 42 U.S.C. §§ 1983 or 1988 by any of the individually named defendants, identify with specificity the right(s) you claim were violated and the specific act(s) of the individual that you claim constituted or resulted in a violation of your civil rights.

ANSWER: False arrest, excessive force, selective prosecution.

12. State the amount of dollars and cents claimed by you for damages as follows:

(a) general damages;

~~XXXXXX~~ *To be determined*
SAK

(b) loss of time or income; 1,500.00

(c) medical and hospital expenses; and 2,800.00

(d) any other special damages.

3,000.00
SAK

DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 8

STAFFORD FREY COOPER

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ATTORNEY'S CR 26 CERTIFICATION

Pursuant to FED R. Civ P. 26(g), the undersigned attorney, certifies, that he or she has read each response and objection to these discovery requests and that, to the best of his or her knowledge, information, and belief formed after a reasonable inquiry, each is (1) consistent with the Federal Rules of Civil Procedure and is warranted by existing law or a good faith argument for the extension, modification, reversal of existing law, (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the litigation costs, and (3) not unreasonably or unduly burdensome or expensive given the needs of the case, the discovery already had, the amount in controversy, and the importance of the issues at stake in this controversy.

RESPONSE TO DEFENDANTS' FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION SUBMITTED this 26 day of November, 2001.

By: Scott A. Cooper

DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 13

Q:\CLIENTS\3000\0001\3019\22003\FEDERAL PLEADINGS\ROGS AND RFP.DOC

STAFFORD FREY COOPER
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FACSIMILE (206) 624-6885

VERIFICATION

3 I, Muio Tran, certify and declare under perjury under the laws of Washington
4 State, that I have read the answers to the foregoing Defendants' First Requests for
5 Admission and the Responses thereto, know the contents thereof, and believe all the
6 answers to be true.
7

8 SIGNED at Seattle, Washington, on this 26 day of
9 November, 2001.
10

11 MUIO, TRAN
12 By: [Signature]
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DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 14

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FACSIMILE (206) 624-6885

VERIFICATION

3 I, Mui Tam & Ken Nguyen, certify and declare under perjury under the laws of
4 Washington State, that I am the guardian for Nhu Huu Tran, a minor child, and that I
5 have read the answers to the foregoing Defendants' First Requests for Admission and
6 the Responses thereto, know the contents thereof, and believe all the answers to be
7 true.

8 SIGNED at Seattle, Washington, on this 16 day of
9 November, 2001.

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13 By: [Signature]

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DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 16

Q:\CLIENTS\3000\000\3019\22003\FEDERAL PLEADINGS\ROGS AND RFP DOC

STAFFORD FREY COOPER
— PROFESSIONAL CORPORATION —
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TELEPHONE (206) 623-9900
FACSIMILE (206) 624-6885

VERIFICATION

3 I, Kim-Cuc Nguyen, certify and declare under perjury under the laws of
4 Washington State, that I have read the answers to the foregoing Defendants' First
5 Requests for Admission and the Responses thereto, know the contents thereof, and
6 believe all the answers to be true.

7 SIGNED at Seattle, Washington, on this 26th day of
8 November, 2001.

11 KIM CUC NGUYEN
12 By: Theresa Nguyen

26
DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 15

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VERIFICATION

Min Tran Huu Nguyen

I, Min Tran Huu Nguyen, certify and declare under perjury under the laws of Washington State, that I am the guardian for Loan Huu Tran, a minor child, and that I have read the answers to the foregoing Defendants' First Requests for Admission and the Responses thereto, know the contents thereof, and believe all the answers to be true.

SIGNED at Seattle, Washington, on this 26th day of November, 2001.

[Signature]
By: Thammy Nguyen

DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION - 17

Q:\CLIENTS\3000\000\3019\22003\FEDERAL PLEADINGS\ROGS AND RFP.DOC

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PROFESSIONAL CORPORATION

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